



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	04/25/11	Bill No:	Assembly Bill 585
Tax Program:	Property	Author:	Fong
Sponsor:	California Assessors' Association	Code Sections:	RTC 5841
Related Bills:		Effective Date:	01/01/12

BILL SUMMARY

This bill requires the Department of Housing and Community Development to provide each county assessor with a one-time list of all manufactured homes sited in that county in a specified electronic format.

ANALYSIS

CURRENT LAW

Annual Taxation. Annually, manufactured homes (MHs) are subject to either:

- local property taxation pursuant to Revenue and Taxation Code Section 5801, which is administered by the county, or
- in-lieu taxation in the form of a license fee pursuant to Health and Safety Code Section 18115 and 18116, which is administered by the Department of Housing and Development (HCD). [This was formerly a Vehicle License Fee (VLF) through the Department of Motor Vehicles (DMV).]

Local Property Taxation (LPT). All MHs first sold new on after July 1980 are subject to LPT. MHs first sold new before July 1, 1980 are subject to in lieu taxation (ILT) unless (1) voluntary conversion to LPT was requested, (2) there was a delinquency issue with the license fee occurring between 1980 and 1984, or (3) the MH was subsequently installed on a permanent foundation.

Voluntary Conversion. A MH owner can voluntarily convert from ILT to LPT. Once a MH which was subject to ILT becomes subject to LPT it cannot revert back. Typically, a MH owner converts from ILT to LPT in the course of selling the MH. By switching to LPT prior to the sale, the new buyer does not incur sales tax liability associated with the sales transaction.

License Fee Delinquency. At one time, delinquency in license fees resulted in a transfer of the MH from ILT to LPT. This is no longer the case. Since 1986, delinquent MH-related license fees are sent to the Franchise Tax Board (FTB) for collection.

Permanent Foundation. Installation on a permanent foundation transforms the MH into real property and thus is no longer subject to the special provisions of Part 13 "Taxation of Manufactured Homes" (RTC Sections 5800-5842) (RTC 5801(b)(1))

Registration and Titling. HCD is responsible for the registration and titling of all MHs. This responsibility was transferred from the DMV to HCD on July 1, 1981. The transfer was one part of an effort to enact laws and programs to treat MHs as housing and not

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as a vehicle, in order that manufactured housing could be better utilized to address the need for affordable housing.

- **ILT.** MHs subject to ILT pay registration and license fees annually. (Health and Safety Code Section 18075.5).
- **LPT.** MHs subject to LPT are required to pay registration fees to HCD at the time of original registration and upon any subsequent sale, resale, or transfer of title (Health and Safety Code Section 18075.5).

Agency Data Exchange. RTC Section 5842 requires the FTB, DMV, HCD, and any county assessor to exchange or otherwise provide to one another any information relevant to the regulations, titling, and taxation of manufactured homes.

Discovery. RTC Section 5841 requires HCD to transmit to the county assessor of each county on a monthly basis a listing of all new registrations and titles to MHs sited, or to be sited, in that county.

Assessment Trigger Events. MHs newly sited in a county are subject to property tax on the next lien date after installation. Additionally, a MH subject to LPT must be reassessed to its current fair market value whenever there is a “change in ownership.” (Article XIII A, Sec. 2; RTC Sections 5802, 5803, 5804, 5814)

Escape Assessments. RTC Section 532 sets forth the statute of limitations on making escape assessments. An “escape assessment” is a retroactive assessment intended to rectify an omission or error that caused taxable property to not be assessed at all or underassessed (such as a change in ownership of a MH that required reassessment to its current market value).

In most cases, once such an omission or error occurs, the property escapes assessment *each year* thereafter until the underassessment is discovered and corrected. If property escapes assessment, the assessor is required to value the property upon discovery for the appropriate valuation date, enroll the appropriate value on the roll being prepared, process any necessary corrections to the current roll, and process appropriate escape assessments for prior years within the statute of limitations.

Generally, the statute of limitations on escape assessments pursuant to RTC Section 532 requires back taxes on the property to be collected for the last four tax years. RTC Section 502 provides that if any person willfully conceals, fails to disclose, removes, transfers or misrepresents tangible personal property to evade taxation which results in an assessment lower than that which would otherwise be required by law, upon discovery the assessor is to assess the property and impose a penalty of 25% of the additional assessed value per RTC Section 504. When this penalty is levied, RTC Section 532 requires back taxes to the property to be collected for the last eight tax years.

PROPOSED LAW

This bill would amend RTC Section 5841 to require HCD to provide each county assessor with a one-time list by March 1, 2012 of all MHs sited within the county. The list is to include both MHs subject to the LPT and the ILT. The required data must be in a standard text or comma delimited format that can be imported into internal applications.

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IN GENERAL

LPT or ILT? The following guidelines are used when determining whether a MH is subject to LPT or ILT.

- New MHs sold on or after July 1, 1980 are subject to LPT. If the MH is placed on an approved permanent foundation, it is taxed in the same manner as conventional housing. All other MHs are classified as personal property, but special provisions in the statutes essentially give them all the Proposition 13 benefits that real property receives (i.e., base year values, change in ownership exclusions, and base year value transfers etc.).
- New MHs sold prior to July 1, 1980 are subject to ILT with the following exceptions:
 - Owners of pre-July 1, 1980 MHs subject to ILT continue to be taxed that way, or the owner may voluntarily choose to transfer the MH to the LPT system.
 - MHs subject to ILT on which the registration lapsed for 120 days or more between July 1, 1980 and October 1, 1984, and on which reinstatement to the ILT system was not applied for by December 31, 1986, were automatically subject to the LPT.
- Used MHs (i.e., resales) that are sold continue to be taxed under the tax system that applied to the MH before the sale (ILT or LPT).

Change in Ownership. Under existing property tax law, a MH subject to LPT must be reassessed to its current fair market value whenever there is a “change in ownership.” (Article XIII A, Sec. 2; Revenue and Taxation Code Sections 5802, 5803, 5804, 5814)

Additionally, Section 480 requires that, whenever there is a change in ownership of a MH, the buyer (the “transferee”) must file a “Change in Ownership Statement” (COS). However, there is no penalty for failing to file the statement unless the assessor prompts the property owner to file the statement by making a written request. If requested, then the property owner has 45 days to file the COS or otherwise incur penalties as specified.

Select Resident Owned MH Parks. Additionally, in the case of certain MH parks that were converted to tenant ownership and were granted a change in ownership exclusion, Section 62.1(b)(5) requires that if resident-owned MH parks do not use recorded deeds to transfer ownership interests in the spaces or lots, the park must file by February 1 of each year, a report with the county assessor's office containing the following information:

- The name and mailing address of each owner, stockholder, or holder of an ownership interest in the MH park.
- The situs address, including space number, of each unit.
- The date that the ownership interest was acquired.
- If the unit is a manufactured home, the Department of Housing and Community Development decal number or serial number, or both, and whether the MH is subject to the license fee or the local property tax.

In addition to the annual report required to be filed by the resident-owned park, Section 62.1(b)(6) requires any person that acquires an interest in a park that does not use

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recorded deeds to transfer ownership interest in the spaces or lots to file a change in ownership statement within 30 days.

BACKGROUND

Since the late 1970's, the law regarding the taxation of MH and MH parks has been modified many times to reflect the changing role of MH's from primarily vehicles to primarily stationary housing.

After major MH taxation legislation was enacted in 1979 and 1980, most existing MHs continued to be taxed as they had been taxed previously. For these homes, the VLF rate structure and depreciation schedules remain unchanged today.

However, MHs purchased new on or after July 1, 1980 and occupied as residences are treated very much like conventional homes with respect to property tax liability. Over time, most MHs occupied as residences will be subject to LPT rather than ILT.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

The Department of Housing and Community Development (HCD) Division of Codes and Standards administers numerous programs related to MHs. Related to this bill, the Registration and Titling Program maintains title and registration records and collects fees and taxes on MHs. This program offers online registration renewal, online title search/escrow notice, and other online transactions which can be accessed on HCD's web site at www.hcd.ca.gov.

HCD INFORMATION. Of interest to assessors is information available from HCD in hard copy and by way of the online title search/escrow notice function. On a monthly basis, HCD sends each assessor a list of transfers, voluntary conversions, and situs changes of MHs subject to ILT and LPT within the respective county. Specifically, the HCD report contains the following data for MHs that have undergone a transfer, conversion, or situs change:

- The activity (transfer, voluntary conversion, or situs change)
- Decal number
- Serial number
- Length and width
- Manufacturer's name
- Trade name
- Dealer's name
- Date of manufacture
- Date first sold
- Latest purchase date
- Original purchase price
- Latest purchase price
- Current situs address
- Previous situs address
- Registered owner's name and address

Also available to assessors and tax collectors at no cost is HCD's online title search/escrow notice, which can be accessed by way of HCD's Web site. To access the online title search/escrow notice, a Requestor Account must be activated by HCD. To conduct a search for information, the requestor must have a (1) decal/license number, (2) HUD insignia number, or (3) serial number.

The data available through this resource is:

- Decal/license number
- Serial number
- HUD insignia number
- Date of manufacture
- Manufacturer's name
- Trade name
- Model name/number
- Location
- Name of registered owner
- Date manufactured
- Date first sold
- HCD use code
- Original HCD price code
- Tax type: VLF or LPT
- Length and width
- Sale/transfer information

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the California Assessors' Association (CAA) to obtain access to data it needs in an electronic format so that assessors can cross-check the accuracy of the local tax roll in a cost-effective manner.
2. **Issue.** Prior monthly lists provided to county assessors by HCD may have been incomplete, resulting in some MHs escaping LPT or changes in ownership not being discovered. Thus, because of the problems in the past, assessors report that some MHs that should be on the local tax rolls are not. The purpose of acquiring this data in the specified format is to cost-effectively (1) ensure that all MHs that should be subject to LPT are being assessed and (2) ensure that for MHs currently on the local tax roll, any subsequent change in ownership has been discovered and processed.
3. **One time electronic list.** This bill requires HCD to provide each county assessor, by March 1, 2012, with a list of all MHs within the county, both those subject to the LPT and ILT, in a standard text or comma delimited format that can easily be imported into assessors' internal systems. The CAA argues that assessors need a full listing of MHs that should be on the local property tax roll and that HCD is the only entity that has the information.
4. **HCD is responsible for titling and maintaining title records for all MHs in the state.** All new MHs are subject to initial registration with HCD, and this registration must be renewed upon changes in ownership. For MHs subject to ILT, the registration must be renewed annually to pay the annual license fee.
5. **Existing law requires HCD to inform county assessors of all new registrations and titles to MHs sited within the county.** In practice, HCD provides this information twice a month. The CAA reports that in the past, HCD's bi-monthly reports were not always accurate and may have omitted new registrations or titles. Further, assessors do not have the staff to manually canvass the parks each year. County assessors believe that HCD has addressed the problems with its reporting and that the information they are now receiving is accurate.
6. **Both assessors and HCD are responsible for the annual taxation of MHs.** Most MHs in California are subject to the local property tax. Those that are not pay a license fee in lieu of property tax to HCD on an annual basis. Because of the cross-nature of ILT and LPT and because registration and titling responsibilities of MHs rest with the state, rather than with the local county recorder, co-operation between the state and the county is critical.
7. **Prior efforts to canvass MHs for escape assessment discovery.** AB 2526 (Fong) of 2010, sponsored by the Santa Clara County Assessor, attempted to

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address this issue by stating the intent of the Legislature to enact legislation to require owners and operators of mobilehome parks to provide, upon the request of the county assessors, a statement containing the decal number, registered owner, situs address, and mailing address of all MHs located in the park. In pursuing the legislation, the sponsor discovered that park owners do not necessarily have this information, but HCD does. The sponsor approached HCD and dropped their bill when HCD agreed to provide a one-time list to each county assessor of all MHs within the county. The list included both those that should be paying property tax and those that pay the in lieu license fee to HCD, and was intended to be used to bring the local tax roll up to date.

8. **Data matching could not be processed efficiently and cost effectively.** The HCD provided the information to county assessors in the Fall of 2010 in PDF format. Such a format cannot be imported into assessors' databases. With the PDF file, assessors would have had to manually go through the list in order to check it against the local tax roll. For counties in which there are thousands of MHs, this process would be time-consuming and cumbersome. The assessors went back to HCD and asked for the data to be provided in Excel or some other standard text or comma delimited format, similar to the format in which HCD provides the bi-monthly updates to assessors on new titles and registrations, but thus far HCD has been unwilling to do so.
9. **Eventual discovery and escape assessments.** According to assessors, failure to list a MH on the property tax roll will result in an undue hardship to that taxpayer who may be required to pay several years of back taxes once the error is discovered. Additionally, the sponsor notes that if errors are discovered after the statute of limitations has passed the revenue that should have been collected for those particular tax years is lost.
10. **Similar efforts to discover escaped assessments related to unprocessed changes in ownerships of MHs resulted in legislation requiring prospective reassessment but forgiving back taxes.** This occurred in the case of changes in ownership of MHs within resident-owned mobilehome parks. Specifically, Section 62.1 (b)(4)(A) provided that the assessor would correct the assessment of the MH prospectively but prohibited escape or supplemental assessments related to previously unprocessed changes in ownership that occurred during a specific time frame. Should the data matching project uncover a significant number of previously escaping MHs or previously undiscovered changes in ownership, depending upon the value of the MH in question and the number of years open to escape assessment, the resulting tax bill could be significant to the MH owners. In the situation involving resident-owned parks, the MH owners were active in seeking a remedy for the unanticipated additional tax liability at every level of government. Ultimately, legislation was necessary and enacted as noted above.

COST ESTIMATE

The BOE would incur some minor absorbable costs in informing and advising county assessors, the public, and staff of the change in law.

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REVENUE ESTIMATE

This bill has no direct property tax revenue impact. However, should the data matching project uncover a significant number of previously escaping MHs, property tax revenues could increase by an unknown amount. In the case of a previously undiscovered change in ownership, property tax revenues from each particular MH could increase or decrease depending upon the resulting change in value of the particular MH in question. It is possible that in some cases, the assessed value of the MH could decrease due to its age or condition.

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